

112TH CONGRESS
1ST SESSION

H. R. 258

To require the Office of Management and Budget to prepare a crosscut budget for restoration activities in the Chesapeake Bay watershed, to require the Environmental Protection Agency to develop and implement an adaptive management plan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2011

Mr. WITTMAN introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the Office of Management and Budget to prepare a crosscut budget for restoration activities in the Chesapeake Bay watershed, to require the Environmental Protection Agency to develop and implement an adaptive management plan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chesapeake Bay Ac-
5 countability and Recovery Act of 2011”.

1 **SEC. 2. CHESAPEAKE BAY CROSSCUT BUDGET.**

2 (a) CROSSCUT BUDGET.—The Director, in consulta-
3 tion with the Chesapeake Executive Council, the chief ex-
4 ecutive of each Chesapeake Bay State, and the Chesa-
5 peake Bay Commission, shall submit to Congress a finan-
6 cial report containing—

7 (1) an interagency crosscut budget that dis-
8 plays—

9 (A) the proposed funding for any Federal
10 restoration activity to be carried out in the suc-
11 ceeding fiscal year, including any planned inter-
12 agency or intra-agency transfer, for each of the
13 Federal agencies that carry out restoration ac-
14 tivities;

15 (B) to the extent that information is avail-
16 able, the estimated funding for any State res-
17 toration activity to be carried out in the suc-
18 ceeding fiscal year;

19 (C) all expenditures for Federal restoration
20 activities from the preceding 3 fiscal years, the
21 current fiscal year, and the succeeding fiscal
22 year; and

23 (D) all expenditures, to the extent that in-
24 formation is available, for State restoration ac-
25 tivities during the equivalent time period de-
26 scribed in subparagraph (C);

1 (2) a detailed accounting of all funds received
2 and obligated by all Federal agencies for restoration
3 activities during the current and preceding fiscal
4 years, including the identification of funds which
5 were transferred to a Chesapeake Bay State for res-
6 toration activities;

7 (3) to the extent that information is available,
8 a detailed accounting from each State of all funds
9 received and obligated from a Federal agency for
10 restoration activities during the current and pre-
11 ceding fiscal years; and

12 (4) a description of each of the proposed Fed-
13 eral and State restoration activities to be carried out
14 in the succeeding fiscal year (corresponding to those
15 activities listed in subparagraphs (A) and (B) of
16 paragraph (1)), including the—

17 (A) project description;

18 (B) current status of the project;

19 (C) Federal or State statutory or regu-
20 latory authority, programs, or responsible agen-
21 cies;

22 (D) authorization level for appropriations;

23 (E) project timeline, including benchmarks;

24 (F) references to project documents;

1 (G) descriptions of risks and uncertainties
2 of project implementation;

3 (H) adaptive management actions or
4 framework;

5 (I) coordinating entities;

6 (J) funding history;

7 (K) cost-sharing; and

8 (L) alignment with existing Chesapeake
9 Bay Agreement and Chesapeake Executive
10 Council goals and priorities.

11 (b) MINIMUM FUNDING LEVELS.—The Director shall
12 only describe restoration activities in the report required
13 under subsection (a) that—

14 (1) for Federal restoration activities, have fund-
15 ing amounts greater than or equal to \$100,000; and

16 (2) for State restoration activities, have funding
17 amounts greater than or equal to \$50,000.

18 (c) DEADLINE.—The Director shall submit to Con-
19 gress the report required by subsection (a) not later than
20 30 days after the submission by the President of the Presi-
21 dent's annual budget to Congress.

22 (d) REPORT.—Copies of the financial report required
23 by subsection (a) shall be submitted to the Committees
24 on Appropriations, Natural Resources, Energy and Com-
25 merce, and Transportation and Infrastructure of the

1 House of Representatives and the Committees on Appro-
2 priations, Environment and Public Works, and Commerce,
3 Science, and Transportation of the Senate.

4 (e) EFFECTIVE DATE.—This section shall apply be-
5 ginning with the first fiscal year after the date of enact-
6 ment of this Act for which the President submits a budget
7 to Congress.

8 **SEC. 3. ADAPTIVE MANAGEMENT PLAN.**

9 (a) IN GENERAL.—Not later than 1 year after the
10 date of enactment of this Act, the Administrator, in con-
11 sultation with other Federal and State agencies, shall de-
12 velop an adaptive management plan for restoration activi-
13 ties in the Chesapeake Bay watershed that includes—

14 (1) definition of specific and measurable objec-
15 tives to improve water quality, habitat, and fisheries;

16 (2) a process for stakeholder participation;

17 (3) monitoring, modeling, experimentation, and
18 other research and evaluation practices;

19 (4) a process for modification of restoration ac-
20 tivities that have not attained or will not attain the
21 specific and measurable objectives set forth under
22 paragraph (1); and

23 (5) a process for prioritizing restoration activi-
24 ties and programs to which adaptive management
25 shall be applied.

1 (b) IMPLEMENTATION.—The Administrator shall im-
2 plement the adaptive management plan developed under
3 subsection (a).

4 (c) UPDATES.—The Administrator shall update the
5 adaptive management plan developed under subsection (a)
6 every 3 years.

7 (d) REPORT TO CONGRESS.—

8 (1) IN GENERAL.—Not later than 60 days after
9 the end of a fiscal year, the Administrator shall
10 transmit to Congress an annual report on the imple-
11 mentation of the adaptive management plan required
12 under this section for such fiscal year.

13 (2) CONTENTS.—The report required under
14 paragraph (1) shall contain information about the
15 application of adaptive management to restoration
16 activities and programs, including programmatic and
17 project level changes implemented through the proc-
18 ess of adaptive management.

19 (3) EFFECTIVE DATE.—Paragraph (1) shall
20 apply to the first fiscal year that begins after the
21 date of enactment of this Act.

22 **SEC. 4. INDEPENDENT EVALUATOR FOR THE CHESAPEAKE**
23 **BAY PROGRAM.**

24 (a) IN GENERAL.—There shall be an Independent
25 Evaluator for restoration activities in the Chesapeake Bay

1 watershed, who shall review and report on restoration ac-
 2 tivities and the use of adaptive management in restoration
 3 activities, including on such related topics as are suggested
 4 by the Chesapeake Executive Council.

5 (b) APPOINTMENT.—

6 (1) IN GENERAL.—The Independent Evaluator
 7 shall be appointed by the Administrator from among
 8 nominees submitted by the Chesapeake Executive
 9 Council.

10 (2) NOMINATIONS.—The Chesapeake Executive
 11 Council may submit to the Administrator 4 nomi-
 12 nees for appointment to any vacancy in the office of
 13 the Independent Evaluator.

14 (c) REPORTS.—The Independent Evaluator shall sub-
 15 mit a report to the Congress every 3 years in the findings
 16 and recommendations of reviews under this section.

17 (d) CHESAPEAKE EXECUTIVE COUNCIL.—In this sec-
 18 tion, the term “Chesapeake Executive Council” has the
 19 meaning given that term by section 307 of the National
 20 Oceanic and Atmospheric Administration Authorization
 21 Act of 1992 (Public Law 102–567; 15 U.S.C. 1511d).

22 **SEC. 5. DEFINITIONS.**

23 In this Act, the following definitions apply:

24 (1) ADAPTIVE MANAGEMENT.—The term
 25 “adaptive management” means a type of natural re-

1 source management in which project and program
2 decisions are made as part of an ongoing science-
3 based process. Adaptive management involves test-
4 ing, monitoring, and evaluating applied strategies
5 and incorporating new knowledge into programs and
6 restoration activities that are based on scientific
7 findings and the needs of society. Results are used
8 to modify management policy, strategies, practices,
9 programs, and restoration activities.

10 (2) ADMINISTRATOR.—The term “Adminis-
11 trator” means the Administrator of the Environ-
12 mental Protection Agency.

13 (3) CHESAPEAKE BAY STATE.—The term
14 “Chesapeake Bay State” or “State” means the
15 States of Maryland, West Virginia, Delaware, and
16 New York, the Commonwealths of Virginia and
17 Pennsylvania, and the District of Columbia.

18 (4) CHESAPEAKE BAY WATERSHED.—The term
19 “Chesapeake Bay watershed” means the Chesapeake
20 Bay and the geographic area, as determined by the
21 Secretary of the Interior, consisting of 36 tributary
22 basins, within the Chesapeake Bay States, through
23 which precipitation drains into the Chesapeake Bay.

24 (5) CHIEF EXECUTIVE.—The term “chief exec-
25 utive” means, in the case of a State or Common-

1 wealth, the Governor of each such State or Common-
2 wealth and, in the case of the District of Columbia,
3 the Mayor of the District of Columbia.

4 (6) DIRECTOR.—The term “Director” means
5 the Director of the Office of Management and Budg-
6 et.

7 (7) RESTORATION ACTIVITIES.—The term “res-
8 toration activities” means any Federal or State pro-
9 grams or projects that directly or indirectly protect,
10 conserve, or restore living resources, habitat, water
11 resources, or water quality in the Chesapeake Bay
12 watershed, including programs or projects that pro-
13 mote responsible land use, stewardship, and commu-
14 nity engagement in the Chesapeake Bay watershed.
15 Restoration activities may be categorized as follows:

16 (A) Physical restoration.

17 (B) Planning.

18 (C) Feasibility studies.

19 (D) Scientific research.

20 (E) Monitoring.

21 (F) Education.

22 (G) Infrastructure Development.

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